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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 562 of 2013

Cuttack this the 19th day of August, 2013

CORAM

HON'BLE SHRI A.K.PATNAIK, MEMBER (J)

HON'BLE SHRI R.C.MISRA, MEMBER (A)

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Dr.Prafulla Kumar Behera, aged about 36 years, Son of Late Jalandhar Behera resident of At/Po.Markona, Via/Ps.Simulia, Pin-756 126, Dist. Balasore at present working as ADMO, Berhampur Railway Hospital residing at Qr.No.M/3, East Coast Railway Colony, Berhampur.

.....Applicant

(By the Advocate(s)-M/s.S.S.K.Subudhi,S.K.Subudhi,D.Kumar,P.K.Mishra)

-VERSUS-

Union of India represented through

1. General Manager, East Coast Railway, Chandrasekharpur, Pin-751 017, Bhubaneswar.
2. Senior Deputy General Manager, East Coast Railway, Chandrasekharpur, Pin-751 017, Bhubaneswar.
3. Chief Personnel Officer, East Coast Railway, Chandrasekharpur, Pin-751 017, Bhubaneswar.
4. Chief Medical Director, East Coast Railway, Chandrasekharpur, Pin-751 017, Bhubaneswar.
5. Dean/Principal, SCB Medical College, Cuttack.

.....Respondents

(By the Advocate(s)-Mr.T.Rath)



O R D E R

(Oral)

A.K.PATNAIK, MEMBER (JUDL.):

The Applicant who is at present working as ADMO in ECoRly at Berhampur Railway Hospital has filed this Original Application praying to quash the letter dated 7.8.2013 under Annexure-A/7 to direct the Respondent No.1 to accord him leave for higher studies inter alia stating that he had applied and got selected as an in-service candidate under UR category to prosecute his higher study/PG in Ophthalmology in the SCB Medical College, Cuttack for the session 2013-14 and for this purpose, he had already deposited the required fees. Accordingly, he has requested the competent authority to grant him study leave to prosecute in higher study/PG in Ophthalmology in the SCB medical College, Cuttack but although the course has already been commenced from 16th August, 2013, his request has been turned down vide letter dated 7.8.2013 on the ground that CBI Case is *pending &* *undergoing* against *him*.

2. Mr.S.S.K.Subudhi, Learned Counsel appearing for the Applicant submitted that CBI case has nothing to do with regard to sanction/grant of the study leave to the applicant. When the

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applicant has been selected as an in-service candidate for higher study/PG as per the rules, he should have been sanctioned the leave for his career progression. On the other hand, Mr.T.Rath, Learned Standing Counsel appearing for the Respondents strongly opposed the above contentions of Mr.Subudhi by stating that no employee can claim leave as a matter of right and the sanction of leave is subject to rules and keeping in mind the administrative convenience. He has contended that as it appears from the record the applicant has not applied through proper channel nor has he produced any rule showing that even if CBI case is under investigation/enquiry the authority concerned is under obligation to sanction said leave. Hence he has prayed for dismissal of this OA.

3. We have considered the rival contentions of the respective parties and perused the records. No material has been produced to prima facie satisfy that even if the applicant has not applied through proper channel and that CBI case is pending the applicant has a right to be sanctioned the study leave. On the other hand rule clearly provides that leave cannot be claim^{ed} as a matter of right. Merely because session has started from 16th August, 2013

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cannot be a ground to direct the Respondents to relieve the applicant to join the course. Since things are not clear and that representation submitted by the applicant dated 17.8.2013 (Annexure-8) is stated to be still pending, without expressing any opinion on the merit of the matter, we dispose of this OA with direction to the Respondent No. 4 to consider and dispose of the said representation (if it is reached to him) and communicate the decision to the applicant in a well-reasoned order within a period of two weeks from the date of receipt of copy of this order. There shall be no order as to costs.

4. Urgent copy of this order be handed over to the learned Counsel for both sides for transmission to Respondent No.4 for compliance.



(R.C.MISRA)
Member(Admn.)



(A.K.PATNAIK)
Member (Judl.)